

Exxon Valdez Oil Spill Restoration

Habitat Protection & Acquisition Catalog



Exxon Valdez Oil Spill Trustee Council

Habitat Protection Program

Large and Small Parcel Acquisitions

1994 through 2006

An update of the
Exxon Valdez Oil Spill Restoration
Habitat Protection and Acquisition Atlas,
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Mission of the Trustee Council

The mission of the Trustee Council and all participants in Council efforts is to efficiently restore the environment injured by the *Exxon Valdez* oil spill to a healthy, productive, world-renowned ecosystem, while taking into account the importance of quality of life and the need for viable opportunities to establish and sustain a reasonable standard of living.

Restoration has been and will be accomplished through the implementation of a comprehensive interdisciplinary recovery and rehabilitation program that includes:

- natural recovery
- monitoring and research
- resource and service restoration
- habitat acquisition and protection
- replacement
- meaningful public participation
- project evaluation
- fiscal accountability and
- efficient administration.

The *Exxon Valdez* Trustee Council conducts all programs and activities free from discrimination, consistent with the Americans with Disabilities Act. This publication is available in alternative communication formats upon request. Please contact the Trustee Council to make necessary arrangements:

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Table of Contents

Acknowledgements:.....	iv
Introduction	1
The Habitat Protection Process – A History	1
Opportunities for Habitat Protection/Acquisition, February 1993.....	2
Large Parcel Process Evaluation and Ranking, November 1993	2
Small Parcel Process Evaluation and Ranking, February 1995	4
Summary	6
About this Catalog	7
Prince William Sound	9
Chenega	11
Eyak	15
Tatitlek	19
Prince William Sound Small Parcels.....	23
Valdez Parcels	23
Tatitlek Area Parcels	23
LaTouche Area Parcels.....	24
Kenai Peninsula	33
English Bay	35
Kachemak Bay State Park Inholdings.....	37
Kenai Peninsula Small Parcels	41
Kenai River Parcels.....	45
Kasilof River Parcels	46
Ninilchik Parcels.....	47
Anchor River Parcels	47
Homer Area Parcels	48
Seward Parcels.....	49
Kodiak Archipelago Acquisitions	61
Afognak Joint Venture	65
Akhiok-Kaguyak	69
Koniag	73
Old Harbor	77
Seal Bay and Tonki Cape	81
Shuyak Island	85
Small Parcel Acquisitions, Kodiak Island.....	89
Uyak Bay Parcels	93
Browns Lagoon Parcels.....	94
Amook Bay/Pass Parcels.....	94
Larsen Bay Parcels.....	95
Carlsen Point Parcels	96
Zachar Bay Parcels.....	96
Karluk River and Mouth of the Ayakulik River	97
Three Saints Bay Parcels	97
Sitkalidak Strait Parcels.....	98
Kiliuda Bay Parcels.....	98
Acronyms	120
Trustee Council Resolutions	121
References & Relevant Publications:	124
Appendix A: Acquisition Summary Tables	125
Appendix B: Small Parcel Process and Policy.....	135

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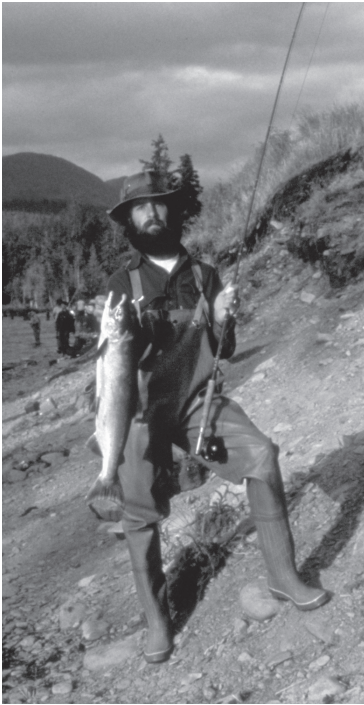
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Introduction



Habitat protection has been a major component of the *Exxon Valdez* oil spill restoration process. The acquisition of private lands, or partial interests in private lands, is intended to promote natural recovery of spill-injured resources and services by removing the threat of additional development impacts. These lands will be managed in perpetuity for the restoration and protection of resources and services injured by the spill and for the enjoyment of the public for purposes of subsistence use, sport fishing and hunting, personal use fishing, trapping, recreational uses and commercial fishing.

The Comprehensive Habitat Protection Process is the method that was designed to achieve this objective. During the Large Parcel Process, over one million acres within the oil spill affected area were evaluated, scored, and ranked by a multi-criteria evaluation process. Initially lands were divided into large parcels encompassing entire bays and watersheds. Criteria were used to assess the habitat and human use values associated with each parcel and the protection benefit that acquisition would provide for 19 injured resources and associated services.¹ This process provided the basis for the acquisition of protective bundles of rights on over 637,000 acres of land in the Kodiak, Kenai Peninsula, and Prince William Sound regions.

During the Small Parcel Process, smaller parcels, those less than 1,000 acres nominated by willing sellers, were also evaluated using criteria modified to reflect the unique benefits to injured resources that smaller parcels could provide in relation to the surrounding environment, management units and local communities. Over 9,000 acres were protected through this process.

The Habitat Protection Process - A History

**Restoration Framework Supplement, July 1992,
Draft Restoration Plan & Trustee Council Resolution, January 31, 1994.**

The Habitat Protection Process was described in the Restoration Framework Supplement published by the *Exxon Valdez* Oil Spill Trustee Council in July of 1992 and offered for public review and comment. The process was also described in the Draft Restoration Plan, Summary of Alternatives for Public comment (April 1993), and in the Supplement to the Draft Restoration Plan (June, 1993). Public comments in support of the habitat protection process were extensive. On January 31, 1994, the Council adopted the Resolution to Proceed with the Habitat Protection Program. These documents provided the framework for the development and implementation of the Imminent Threat Process, the Large Parcel Process, and the Small Parcel Process.

The Restoration Team formed a Habitat Working Group comprised of agency land managers and resource specialists to manage this program. In addition, many other experts were involved in the development, evaluation, and implementation of this process. Discussions were held with local experts, comments were solicited from the public, extensive reviews of the literature and damage assessment studies were conducted and meetings held with biologists, ecologists, resource managers, archaeologists, and realty, recreation, and subsistence specialists.

Existing programs such as the State of Florida Conservation and Recreation Lands program were reviewed as models. The Nature Conservancy produced a handbook *Options for Identifying and Protecting Strategic Fish and Wildlife Habitats and Recreation Sites* providing an overview of protection tools, techniques and strate-

¹ *Weiner et al. Restoration Ecology Vol. 5 No. 1, p. 44.*

gies used by the Conservancy, federal and state resource agencies and other land stewardship organizations to assist in development of the program.

Central to all aspects of the habitat protection process were Threshold Criteria that were applied to all parcels and with which all parcels must be in compliance.

1. There is a willing seller of the parcel or property right:
2. The parcel contains key habitats that are linked to, replace, provide the equivalent of, or substitute for injured resources or services based on scientific data or other relevant information
3. The seller acknowledges that the governments can purchase the parcel or property rights only at or below fair market value
4. Recovery of the injured resource or service would benefit from protection in addition to that provided by the owner and applicable laws and regulations, and
5. The acquired property rights can reasonably be incorporated into public land management systems.²

Opportunities for Habitat Protection/Acquisition, February 1993

The Habitat Working Group and the Trustee Council utilized Interim Evaluation Criteria and an Interim Process to allow the Council to take quick action to protect those lands threatened by activities that were determined to potentially negatively impact the recovery of species and services injured by the oil spill as well as pursue time-critical opportunities that were available.

This initial component of habitat protection considered the benefit of nominated parcels to injured resources and/or services, the ecological significance of a parcel, adjacent land management, and imminent threats to the parcel, and identified protection objectives and useful protection tools as well. Twenty-two parcels were evaluated under this process.

All habitat protection actions were only pursued with willing sellers. The imminent threat evaluation process concluded by November 1993. Rapid negotiations resulted in the purchase of the Kachemak Bay State Park inholdings and the Seal Bay and Toni Cape parcels on northern Afognak Island. Five parcels proceeded with further negotiations under the Large Parcel Process.

Large Parcel Process Evaluation and Ranking, November 1993

The Large Parcel Process was developed to focus on ecosystem units greater than 1,000 acres nominated by willing landowners in the spill-affected area. The process evaluated nominated parcels relative to criteria similar to those utilized in the Interim Process previously described. Initially 81 parcels were evaluated through an extensive process that included site visits, interviews with local and resource experts, literature reviews, analysis of existing resource data, damage assessment studies, and agency planning documents. In addition, contracts were executed with The Nature Conservancy to conduct expert interviews through a workshop setting with 40 resource specialists and compile a wide range of resource and location information for all nineteen injured resources and services.

A group of six resource specialists with credentials in habitat, fish, and wildlife biology and data management evaluated the nominated parcels according to the following criteria in order to determine the degree of linkage for injured resources and services to specific parcels and the potential for benefit that implementation of habitat protection on specific parcels would have on each linked resource and service. The results of this evaluation process were published for scientific and public review and comment in two volumes, *Comprehensive Habitat Protection Process: Large Parcel Evaluation and Ranking, Volume I and II*, November 30, 1993.

² *Interim Criteria Approved by the Trustee Council January 19, 1993.*

Evaluation Criteria for the Large Parcel Process

1. The parcel contains essential habitat(s)/sites for injured resources or services. Essential habitats include areas for feeding, reproduction, molting, roosting, and migration; essential sites include known or presumed high public use areas. Key factors for determining essential habitat/sites are: (a) population or number of animals or number of public users, (b) number of essential habitats/sites on parcel, and (c) quality of essential habitats/sites.
2. The parcel can function as an intact ecological unit or it contains essential habitats that are connected to other elements/habitats in the greater ecosystem.
3. Adjacent land uses will not significantly degrade the ecological function of the essential habitat(s) nominated or recommended for protection.
4. Protection of the habitats on a parcel would benefit more than one injured resource/service (unless protection of a single resource/service would provide a high recovery benefit).
5. The parcel contains critical habitat for a depleted, rare, threatened, or endangered species.
6. Essential habitats/sites on a parcel are vulnerable to or potentially threatened by human activity.
7. Management of adjacent lands is, or could easily be made compatible with protection of essential habitats on a parcel.
8. The parcel is located within the oil spill area.
 - Criteria #1 was applied to a parcel by injured resource thereby resulting in a designation of High, Moderate, or Low for each injured resource or serviced.
 - Criteria #2-8 were scored with a simple yes or no answer indicating the potential benefit to the entire ecosystem.³

The evaluation process focused on a list of injured resources and services linked to upland and nearshore habitats developed from the Restoration Plan, Summary of Injury and the recommendations of the Chief Scientist. The severity of injury was not a factor in these evaluations due to incomplete damage assessment information. Resources and associated services identified as having key habitats and sites essential for their restoration are listed below.

Resources		Services
Sockeye Salmon	Harlequin Duck	Recreation
Pink Salmon	Intertidal/Subtidal	Tourism
Dolly Varden	Marbled Murrelet	Subsistence
Cutthroat Trout	Pigeon Guillemot	Archaeological Resources
Pacific Herring	River Otter	
Bald Eagle	Sea Otter	
Black Oystercatcher	Common Murre	
Wilderness	Harbor Seal	

Additional information utilized in these evaluations included resource agency data on anadromous fish streams, marine mammal haul-out areas, bald eagle nest locations, seabird colony locations, spruce bark beetle infestation studies, EVOS natural resources damage assessment studies and agency planning studies.

Initially 81 large parcels were evaluated and ranked independently of one another in order to document the degree of linkage to the spill by considering the quality of habitat and the estimated benefit the injured resource or service would receive from protection of the parcel.⁴ These evaluations were peer reviewed by 34 experts

³ *Large Parcel Evaluation and Ranking, November 30, 1993, Volume I, p. 7.*

⁴ *Weiner et. al. Restoration Ecology, Vol. 5 No. 1, p. 50.*

familiar with the area and its resources. Additional information provided by expert reviewers was incorporated into the final analysis. An additional 15 parcels were added to the Large Parcel Evaluation in November 1994.

In summary, over one million acres of habitat in 96 parcels were evaluated in order to ascertain their potential benefit to the resources and services injured by the *Exxon Valdez* oil spill. Nineteen parcels containing 290,000 acres were identified as having a high potential to benefit the injured resources and services, 28 parcels totaling 346,400 acres were identified as having moderate potential, and 428,300 acres in 49 parcels were identified as having a lower potential to benefit the recovery of injured resources and services. It should be noted however, that even parcels identified as having a lower potential to benefit injured resources and services contain high-rated habitat for one or more injured resources.⁵ Parcel boundaries were initially configured to provide restoration benefits derived from large contiguous tracts of land based on ecosystem units such as bays, watersheds or other key physiographic features in order to protect linked habitat.⁶

The results of the evaluation and ranking process formed the basis for recommendations to the Trustee Council regarding habitat protection opportunities. Negotiations focusing on habitat with high restoration potential were then conducted with willing sellers. A multi-agency team of negotiators and land managers negotiated acquisition packages designed to preserve economic opportunities and the cultural heritage of native landowners and provide restoration benefits. Parcel boundaries were modified as a result of negotiations in order to achieve protection packages acceptable to all parties.

Small Parcel Process Evaluation and Ranking, February 1995

The Small Parcel Process as described in the *Comprehensive Habitat Protection Process: Small Parcel Evaluation and Ranking Volume III* rated the benefit of nominated parcels (less than 1,000 acres) to injured resources and/or services. The evaluation also considered the parcel's importance to adjacent public land management and threats to injured resources and/or services. This evaluation process independently ranked the parcels and produced benefit reports, providing a narrative account of how each recommended parcel might achieve restoration objectives. And, in the case of the Small Parcel Process, it allowed the Council to apply additional merit considerations, if warranted. The Small Parcel Process allows the Council to focus on the strategic nature of small parcels in the context of larger areas; considering such attributes as access, special values such as haulouts or rookeries, and benefits to management that would accrue with consistent oversight and compatible land use activities.

Over four hundred and eighty parcels were initially nominated. Consistent with the other elements of the habitat protection process, nominations were initially screened through the use of threshold criteria designed to determine whether a parcel merited further consideration.

Parcels that warranted further consideration were evaluated to determine 1) the parcel's linkage to key habitats/sites of an injured resource or service, 2) the potential for benefit that implementation of habitat protection would have on each linked resource and/or service, and, 3) the benefits to management of public lands containing injured resources/services that would be derived from protection of the parcel.

The following Evaluation and Ranking Criteria were applied to the nominated small parcels:

⁵ *Report of the Executive Director Concerning Habitat Acquisitions, November 29, 1994. p. 5.*

⁶ *Weiner et. al. Restoration Ecology, Vol. 5 No. 1, p. 49.*

Linkage

- Occurrence – the parcel contains key habitats/sites that benefit the recovery of injured resources or services.
- Uniqueness – key habitats/sites on the parcel are unique in relation to key habitats/sites off-parcel (within the region).
- Connectedness – the essential habitats/sites linked to injured resources/services on parcel are connected to other elements/habitats in the greater ecosystem.
- Quality – does the parcel have high levels of production, diversity, use levels or other measures of habitat richness?

Protection Potential

- Key habitats/sites on parcel are vulnerable to or potentially threatened by disturbance or habitat loss.
- Key habitats/sites on nearby lands are vulnerable to or potentially threatened by disturbance or habitat loss from development on the subject parcel.
- Key habitats/sites on parcel are protected (not vulnerable from incompatible adjacent land uses).
- Recovery of the injured resources/services would benefit from protection in addition to that provided by the owner and applicable laws and regulations.

Management

- Will acquisition of the parcel allow for enhancement of injured resources/services?
- The parcel has strategic value to protect or provide access to key habitats/sites that occur on or beyond the parcel's boundaries.⁷

Information submitted with the nomination packet was considered along with data from resource agency staff on specific parcels, resource agency data on anadromous fish streams, marine mammal haulout areas, bald eagle nest locations, seabird colony locations, subsistence harvest areas, cultural resource site locations and significance, as well as EVOS natural resources damage assessment studies and agency planning studies. The small parcel process, emphasized both the potential benefits to injured resources and services and the parcel's relationship to the management of nearby public lands, including access and strategic location.⁸

A supplement to the initial *Small Parcel Evaluation and Ranking Summary* was published in July 1995. Since that time, the Council has continued to pursue small parcels nominated by willing sellers. From 2000 to 2003, the Council managed the Small Parcel program through a grant with The Nature Conservancy and The Conservation Fund. The Nature Conservancy and The Conservation Fund worked with the land managing agencies to achieve restoration objectives, assuming the responsibility for negotiations and some preliminary due diligence tasks associated with land acquisitions.

In August 2005, the Council adopted a revised Small Parcel Process included in Appendix B in order to clarify procedures and policies to be followed in the future and affirm the Council's conceptual support for the program. To date, 110 parcels have been successfully pursued through the Small Parcel Process. In addition, the Council authorized a contribution of \$175,000 toward the purchase of two parcels, Mutch and Jacobs on the Kenai Peninsula. These parcels have not yet been transferred from The Nature Conservancy to the State. The Council continues to consider parcels nominated by willing sellers according to the policies and procedures recently adopted (Appendix B).

⁷*Small Parcel Evaluation and Ranking, February 13, 1995, p. 6.*

⁸*Weiner et. al., Restoration Ecology Vol. 5 No. 1, p. 49.*

Summary

The Council has successfully completed habitat protection measures with a variety of landowners including native corporations, the Kodiak Island Borough, the City of Homer, native allottees, and many other private individuals. The Council and the managing agencies have also worked with a variety of non-profit organizations such as The Trust for Public Land, The Nature Conservancy, The Conservation Fund, The Rocky Mountain Elk Foundation, The American Land Conservancy, Kodiak Brown Bear Trust, Kenai River Sportfishing Association, and the Kachemak Heritage Land Trust to achieve restoration objectives. These efforts have provided multiple benefits to injured resources and services and, additionally to other species that utilize these habitats, landowners, the public, and the economy. The lands acquired with EVOS funds are available to the public for recreation, hunting, fishing, and subsistence uses. They have provided individuals and corporations with a financial return on their investments or assets and these dollars circulate throughout the community. In addition, these acquisitions help to ensure that there will be opportunities for commercial guiding and sportfishing in the future as well as other commercial recreation ventures such as ecotourism that serve tourists and residents alike and contribute to the local and state economies.

The EVOS acquisitions are summarized in the following table by region. Additional details regarding acquisitions can be found in subsequent sections of this document. For additional information on the maps and detail provided please read the following section entitled About this Catalog. The maps and information that follow are designed to help the public understand the resulting benefits to injured resources and services as well as the resources available for public use and enjoyment.

EVOS Habitat Protection Spill Area Summary

Region	Acres	Cost	EVOS Trust	Other Sources
PRINCE WILLIAM SOUND				
Large Parcels:				
Chenega	60,001	\$34,000,000	\$24,000,000	\$10,000,000
Eyak, inc. Orca Narrows	78,138	\$48,576,704	\$48,576,704	\$0
Tatitlek	72,129	\$34,719,461	\$24,719,461	\$10,000,000
Small Parcels:	1,467	\$3,137,300	\$3,137,300	\$0
KENAI PENINSULA				
English Bay	32,470	\$15,156,790	\$14,128,074	\$1,028,716
Kachemak Bay	23,702	\$22,000,000	\$7,500,000	\$14,500,000
Small Parcels:	5,963	\$16,947,100	\$16,463,100	\$484,000
KODIAK ARCHIPELAGO				
Afognak Joint Venture	41,376	\$73,966,348	\$73,966,348	
Akhiok-Kaguyak	113,338	\$46,000,000	\$36,000,000	\$10,000,000
Koniag Easement	56,823	\$6,854,504	\$6,704,504*	150,000
Koniag Fee	59,674	\$26,500,000	\$19,500,000	\$7,000,000
Old Harbor	31,609	\$14,541,000	\$11,291,000	\$3,250,000
Seal Bay	41,549	\$39,549,333	\$39,549,333	\$0
Shuyak	26,958	\$42,000,000	\$42,000,000	\$0
Small Parcels:	2,007	\$2,889,050	\$2,889,050	\$0
Total				
	647,202	\$426,837,590	\$370,424,874	\$56,412,716

*Represents cost of easement through 2012. \$29,800,000 was set aside for the fee purchase of these lands. Annual payments are taken from this fund.

About this Catalog

This catalog summarizes the physical characteristics, restoration benefits, and geographic location of parcels acquired to date by the *Exxon Valdez* Oil Spill Trustee Council. The document is organized by the three geographic regions within the spill area consistently referenced during response and restoration following the spill; Prince William Sound (PWS), Kenai Peninsula (KEN), and Kodiak and the Alaska Peninsula (KAP). This reference scheme has been carried through in the numbering of parcels as nominations were received and entered into the EVOS evaluation and tracking processes and in previous publications. These parcel identifiers are carried forward in this publication as well.

The physical descriptions of the various acquisitions and their restoration benefits are compiled from a variety of sources including initial parcel evaluations, benefits reports prepared for Trustee Council consideration, Trustee Council resolutions, and previous Trustee Council publications. References to Evaluation Parcels are derived from the following publications: *Opportunities for Habitat Protection/Acquisition*, *Comprehensive Habitat Protection Process: Large Parcel Evaluation & Ranking and Small Parcel Evaluation and Ranking*. These documents are available at the Alaska Resources Library and Information Services (ARLIS) and the Trustee Council Restoration Office as well as the various Trustee agencies.

Acquisitions are authorized by the Trustee Council via resolution, following negotiations with landowners and due diligence actions such as appraisals and site assessments. Resolutions document the Council's actions. Appraisals form the basis for acquisitions, however, there may have been multiple appraisals, disputed values, and modified acquisition packages following the appraisal process. If the appraised value is of interest, the reader should consult the actual appraisal.

The expenditure of settlement funds for acquisitions requires filing a notice or request with the U.S. District Court for the District of Alaska, which retains jurisdiction over the settlement. All requests refer to Trustee Council resolutions. Parcel descriptions in this catalog document the dates of Trustee Council Resolutions and Court Requests pertaining to the various acquisition packages. This information may be useful for the reader who wishes to secure additional information on a particular parcel. Summary tables consolidating parcel information, financial information, closing dates and other information are included in Appendix A.

The maps included in this catalog are **representations** of the parcels acquired - ONLY. For specific legal descriptions and rules and regulations related to use of these lands, please contact the appropriate land manager. The maps in this catalog are intended to provide a means of identifying the appropriate land manager and depict the relative location of parcels. The "bundles of rights" acquired for the large parcels and the land manager acquiring those rights are identified in the map legends and summarized below and in the tables associated with each region.

Large Parcels and Parcels of Opportunity

The acquisition of large parcels (parcels greater than 1,000 acres) involved the acquisition of various bundles of rights and resulted in complex acquisition packages that are depicted in this catalog and further defined below.

Protective Rights Acquired - Map Legend Large Parcel Maps

STATE LAND – Alaska Department of Natural Resources (ADNR)

The **Surface Estate** was acquired by the State with a conservation easement held by the Federal Government and Native Corporation. Management rights may be assigned to the ADNR Division of Parks and Outdoor Recreation and/or the Alaska Department of Fish & Game.

FEDERAL LAND - US Forest Service, US Fish & Wildlife Service, (USFWS) National Park Service (NPS) as identified on maps.

The **Surface Estate** was acquired by the United States with conservation easement held by the State and Native Corporation.

NATIVE LANDS – Conservation Easement with permitted public access

A **Conservation Easement** was acquired by the Federal Government with certain enforcement rights acquired by the State. **Permitted public access** is managed by the Native corporation through implementation of a permit/fee system.

NATIVE LANDS – Conservation Easement with NO public access

A **Conservation Easement** was acquired by the Federal Government with certain enforcement rights acquired by the State. **No public access.** These areas are generally important to Native corporations for subsistence or cultural reasons.

NATIVE LANDS – Timber Easement

A **Timber Easement** was acquired by the Federal Government. Native Corporation retains all rights except the right to cut and remove marketable timber for sale.

NATIVE LANDS – Timber Easement with public access

A **Timber Easement** was acquired by the Federal Government with **permitted public access** managed by the Native corporation through implementation of a permit/fee system.

The following activities are prohibited on all EVOS acquired lands:

Changing the topography, dumping trash, using biocides, removing or destroying plants except for subsistence or medicinal use, altering watercourses, using motorized vehicles with the exception of floatplanes, removing or harvesting timber, introducing non-indigenous plants, and building facilities. Limited facilities such as public use cabins, weir sites, trails and campsites may be constructed for research or management purposes.

These restrictions are enforced through conservation easements held by the opposite government. For example, the Federal Government holds a conservation easement including a right to enforce the terms and conditions described in the easement on all State acquired EVOS lands. On lands acquired by the Federal Government, a like easement is held by the State.

Small Parcels

Small parcels (parcels smaller than 1,000 acres) were acquired in fee. In this catalog, small parcels are grouped by general geographic areas within the PWS, KEN, and KAP regions. A regional overview is provided. Each subarea is then further described and mapped. The attributes and restoration benefits of the small parcels are discussed in the context of the area of focus.

The small parcel maps included in this catalog are intended to provide an overview of the Prince William Sound, Kenai Peninsula, and Kodiak small parcel acquisitions in relation to generalized land status, Conservation System Units, and the EVOS large parcel acquisition packages. Note that in these maps, the land status and details of the large parcel acquisitions are not depicted, only the relative location of these acquisition efforts is displayed. For large parcel acquisition detail, the large parcel maps should be consulted. In addition, maps depicting the location of small parcels relative to the physical and geographic features of the areas are included to provide additional detail and reference points for the reader.

A conservation easement held by the opposite government enforces restrictions similar to those referenced above. The conservation easements are similar in form and substance but may have some modifications designed to address the unique attributes of a particular parcel or issues identified by a particular landowner.